

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	

**COMMENTS OF THE  
AMERICAN PUBLIC COMMUNICATIONS COUNCIL**

The American Public Communications Council ("APCC") submits these comments on the *Recommended Decision* of the Federal-State Joint Board on Universal Service ("Joint Board") regarding the definition of services supported by universal service.<sup>1</sup> APCC supports the Joint Board's recommendation that the Commission initiate a proceeding to investigate the status of payphones and offers suggestions as to the timing of and issues to be considered in such a proceeding.

The proposal to revise the definition of universal service to include payphones was offered by Community Voice Mail in comments in the Joint Board proceeding.<sup>2</sup> Community Voice Mail, citing the importance of payphones to the hundreds of community service groups it serves around the nation, offered a general proposal for universal service support for payphones.<sup>3</sup> In reply comments, APCC

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<sup>1</sup> These comments are submitted in response to *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Notice on Proposed Rulemaking, released February 25, 2003, 68 Fed. Reg. 12020 (March 31, 2003) (attaching *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 023-1, Recommended Decision, 17 FCC Rcd 14095 (July 10, 2002) ("*Recommended Decision*").

<sup>2</sup> See Community Voice Mail letter dated October 30, 2001, filed as comments on November 5, 2001 in the universal service definition proceeding, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45.

<sup>3</sup> *Id.*

supported Community Voice Mail's proposal by explaining in detail the critical role that payphones play in universal service, by demonstrating the threat to that role posed by the accelerating decline in payphone deployment, and by offering a specific proposal for universal service support for payphones.<sup>4</sup>

The Joint Board reached many of the same conclusions as Community Voice Mail and APCC. It stated that payphones play "a vital role in ensuring consumers access to the network"<sup>5</sup> and that the "decline [in payphone deployment] may have had a detrimental impact on access to essential phone services."<sup>6</sup> Nevertheless, the Joint Board did "not recommend including payphone lines in the definition of supported services *at this time*."<sup>7</sup> *Recommended Decision*, ¶ 47 (emphasis added). The Joint Board was concerned, as an initial matter, that although most members of the public use payphones, payphone service does not meet the statutory criterion of section 254(c)(1)(B) that a supported service have "been subscribed to by a substantial majority of residential customers."<sup>8</sup> While acknowledging that payphones met the other relevant statutory criteria, the Joint Board nevertheless concluded that it does "not believe that the public interest supports the proposal of APCC." *Recommended Decision*, ¶ 47.

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<sup>4</sup> Reply Comments of American Public Communications Council in *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45 (January 4, 2002).

<sup>5</sup> *Recommended Decision*, ¶ 50.

<sup>6</sup> *Id.* at ¶ 49.

<sup>7</sup> *Id.* at ¶ 47.

<sup>8</sup> *Id.* APCC had explained that under Commission precedent the 254(c)(1)(B) criterion need not be met, just considered. APCC Reply Comments, pp. 15-16 and n.38. APCC also had pointed out that payphones are "subscribed to" in the sense that they are used by just about everybody at some time or another. *Id.*

The Joint Board's reservations stemmed in part from its view that the dial-around per call compensation plan obviates the need for payphone service providers to obtain universal service support. *Recommended Decision*, ¶ 48. While the Joint Board may be right that there is a relationship between dial-around compensation and universal service support for payphones, the two mechanisms are different. Dial-around compensation is a cost recovery mechanism;<sup>9</sup> universal service support, on the other hand, is a subsidy designed to encourage more widespread deployment of facilities, as required by Section 276.<sup>10</sup> The two mechanisms can work in tandem, such that a properly set dial-around compensation rate can reduce, although not necessarily eliminate, the need for universal service support for payphones.

The Commission currently is reviewing the dial-around rate.<sup>11</sup> This is a critically important proceeding, and APCC encourages the Commission to focus its resources on promptly establishing a new rate.<sup>12</sup> Although the Commission must at some point also address the need for universal service support for payphones in rulemaking proceeding, the more pressing need now is to conclude the dial-around rate proceeding.

Any proceeding that the Commission does initiate on the issue of universal service support for payphones should be narrowly focused. The notice should not raise

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<sup>9</sup> See *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Third Report and Order, and Order on Reconsideration of the Second Report and Order, 14 FCC Rcd 2454 (1999).

<sup>10</sup> 47 U.S.C. § 276.

<sup>11</sup> See *American Public Communications Council's Request to Update Default Compensation*, RM No. 10568 (November 14, 2002) ("*Request*").

<sup>12</sup> As APCC has compellingly demonstrated in its *Request*, the current per call rate of \$.24 is grossly inadequate and should be doubled.

the separate issue of the public interest payphone program, a program in which the Joint Board expressed interest.<sup>13</sup>

The expansion of the public interest payphone program is not a meaningful way to address the core problem of a decline in payphone deployment. The states' public interest payphone programs, although in place for several years, have resulted in support for only several hundred payphones nationwide,<sup>14</sup> while payphone deployment nationwide is decreasing by well in excess of 100,000 payphones per year.<sup>15</sup>

Public interest payphone programs are designed for a different purpose than the promotion of wide-spread deployment of payphones. The programs are aimed instead at funding individual payphones in narrowly defined locations, such as public parks, and there typically is a significant administrative burden associated with obtaining state funds for such payphones. They are funded one payphone at a time. Thus, while there is a role for public interest payphone programs, such programs serve a different purpose, and are not significant enough, and cannot be significant enough, to achieve the statutory goal of encouraging widespread deployment of payphones.

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<sup>13</sup> In recommending that the Commission initiate an inquiry into the status of payphones, the Joint Board specifically suggested that the inquiry include "the extent to which states are able to support the establishment of public interest payphones." *Recommended Decision*, ¶ 50.

<sup>14</sup> See Comments of American Public Communications Council, CC Docket No. 96-45, 17 n. 45 (December 31, 2001)(as of December 31, 2001, only California, Indiana and Wisconsin appear to have been funding public interest payphones; in the aggregate, those states were funding fewer than 500 such payphones); Regulatory Commission of Alaska, *Designation of Public Interest Payphones*, Order No. 4, U-01-124 (Dec. 2, 2002)(establishing funding for slightly more than 200 public interest payphones in Alaska).

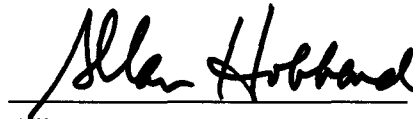
<sup>15</sup> For example, between March 31, 2000 and March 31, 2001, payphone deployment decreased by approximately 140,000 payphones. See FCC Industry Analysis and Technology Division Wireline Competition Bureau's Trends in Telephone Service (August 2001) at Table 8.5.

## CONCLUSION

The Commission should remain focused on the high priority goal of establishing a new rate for dial around compensation. Any proceeding initiated to address universal service support for payphones should be narrowly targeted.

Dated: April 14, 2003

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Allan Hubbard", is written over a horizontal line.

Albert H. Kramer  
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